

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATION BOARD  
REGION 9

FAIRFIELD FORD

Employer

and

Case 9-RC-17713

DISTRICT LODGE 34, INTERNATIONAL ASSOCIATION  
OF MACHINISTS AND AEROSPACE WORKERS, AFL-CIO

Petitioner

**REGIONAL DIRECTOR'S DECISION AND**  
**DIRECTION OF ELECTION**

The Employer, Fairfield Ford, is engaged in the retail sale and service of automobiles at its Fairfield, Ohio facility. The Petitioner, District Lodge 34, International Association of Machinist and Aerospace Workers, AFL-CIO, filed a petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act seeking to represent a unit comprised of technicians (mechanics) working in the job classifications of line technicians, driveability technicians, transmission technicians, regular technicians and working foremen/line technicians employed by the Employer, excluding all office clerical employees, managerial employees, professional employees, guards and supervisors as defined in the Act.

A hearing officer of the Board held a hearing and the Employer filed a brief with me.<sup>1/</sup> Initially, the parties disagree whether the technicians sought by the Petitioner constitute a craft unit appropriate for collective bargaining. The Employer maintains that the technicians do not constitute a craft entitled to separate representation and that the only appropriate unit must include the entire service department, consisting of the technicians, the service advisors, the dispatcher and the warranty clerk. Assuming that the appropriate unit is found to consist of the entire service department, the Petitioner, contrary to the Employer, would exclude the dispatcher as a statutory supervisor.

I have carefully considered the evidence and the arguments presented by the parties and, as discussed below, have concluded that a craft unit comprised of the Employer's technicians (mechanics) is appropriate. My conclusion is

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<sup>1/</sup> The Petitioner submitted an untimely brief that I have not considered.

based on evidence that the technicians sought by the Petitioner constitute a craft group customarily entitled to separate representation. The additional service department employees that the Employer would include in the unit are not required to have the same qualifications and skills as the technicians and do not repair vehicles. Therefore, their inclusion in the craft unit found appropriate is not required and I have excluded them from the unit. Further, in view of my unit determination, I need not resolve the issue of the dispatcher's alleged supervisory status at this time. Accordingly, I have directed an election in a unit consisting of approximately nine employees who make up the craft unit found appropriate.

To provide a context for my discussion of the disputed issues, I will first present an overview of the Employer's operations. I will then discuss in detail the facts and reasoning that support my conclusion on the unit issue.

## **I. OVERVIEW OF OPERATIONS**

The Employer operates a retail car sales and service center in Fairfield, Ohio, where it employs approximately 50 to 60 employees. The facility is divided into four areas, referred to in the record as the service department, the sales department, the parts department and the body shop. Each department has its own supervisor, all of whom report directly to the general manager.

The only department at issue in this proceeding is the service department which is under the immediate supervision of Service Manager Joseph North, whom the parties stipulated is a supervisor within the meaning of Section 2(11) of the Act. The service department consists of 14 employees, including 9 technicians (mechanics), the craft group found appropriate, 3 service advisors, a warranty clerk and the dispatcher. Physically, the service department consists of a service write-up area with 3 desks, an 18-bay service area where mechanical work is performed, an office shared by the warranty clerk and the dispatcher, and the service manager's office. The service write-up area has a garage door through which customers bring their vehicles for evaluation and diagnosis. The write-up area is separated from the service bay area by another garage door, which is either left open or closed depending upon weather conditions. The warranty clerk and the dispatcher share an office adjacent to the service write-up area and the service bay. A large sliding window opens from this office into the service area. The service manager's office is also adjacent to the service area and has a door that opens directly into it. The service department is open for business from 7:30 a.m. to 6 p.m., Monday through Friday, and from 8 a.m. to 1 p.m. on Saturdays.

## **II. CRAFT UNIT FACTORS**

During the week, the technicians typically work from 8 a.m. to 5:30 p.m. while the service advisors' hours are from 7:30 a.m. to 6 p.m., Monday through

Friday. The dispatcher and warranty clerk ordinarily work from 8 a.m. to 6 p.m., Monday through Friday. The service advisors and technicians are scheduled to work every third Saturday from 8 a.m. to 1 p.m. and rotate coverage within their respective classifications. In contrast, the dispatcher, warranty clerk and service manager alternate functioning as the dispatcher on Saturdays. Technicians never perform the duties of the service advisors, dispatcher, or warranty clerk and none of the employees in those classifications substitute as technicians.

On those occasions when the service manager holds a meeting with department employees, he meets with the technicians separately from the warranty clerk, dispatcher and service advisors. The dispatcher, warranty clerk and the service advisors all wear tan slacks and a blue shirt displaying the Employer's logo. The technicians wear a different uniform. All service department employees are eligible for the same insurance benefits. Vacation pay apparently varies depending upon whether an employee is paid hourly or salaried.

The dispatcher, warranty clerk and service advisors receive a weekly salary that is supplemented by a monthly bonus. They do not receive overtime compensation. The dispatcher is paid approximately \$33,000 per year while the warranty clerk earns approximately \$31,000 annually. Service advisors make between \$33,000 to \$36,000 per year.

In contrast to the other service department employees, the highest paid technician earns approximately \$115,000 per year while the lowest paid technician, who is part-time, receives approximately \$21,000 annually. Three of the technicians are paid on an hourly basis and earn time and a half for any overtime worked. The remaining six technicians are paid on a "flat rate" basis and do not receive overtime compensation. These employees are paid a fixed amount based upon the job they are performing, regardless of how long it takes them to perform the work. Three of the "flat rate" technicians worked for the Employer's predecessor and continue to receive a production bonus that was available under the prior ownership. Although the Employer provides some specialized equipment, the technicians usually purchase their own tools.<sup>2/</sup> A complete set of technician tools can cost between \$5,000 and \$20,000. Service advisors, the dispatcher and the warranty clerk do not require any special tools to perform their jobs.

As the Employer notes in its brief, the skill levels of the technicians vary considerably. However, the Employer encourages all technicians to attend training programs offered by Ford and technicians are paid for time spent attending Ford's training programs as well as other training programs that provide various state certifications the Employer is required to maintain. Four of the nine technicians have Ford certifications and the part-time technician, who is

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<sup>2/</sup> There was testimony at the hearing that the new part time employee receives a tool allowance from the Employer.

relatively new, is currently pursuing Ford certifications. The technicians who are not currently certified by Ford have other experience and training that enables them to repair vehicles and have informed the service manager that they are attempting to become Ford certified. Although the service advisors, warranty clerk and dispatcher are also encouraged to take Ford classes to earn certifications, the classes and certifications available to these employees differ considerably from the technicians' classes. For example, the service advisors may take classes on sales techniques. Although it is beneficial to the Employer for the service advisors, warranty clerk and dispatcher to possess rudimentary repair knowledge, these employees do not need the experience or skills necessary to actually repair a vehicle.

The nine technicians or mechanics work in the service area and diagnose and repair vehicles. When a technician has diagnosed a vehicle's problem, he informs a service advisor of the problem and what parts are needed to make the repair. If the customer authorizes the work to be performed, the technician will repair the vehicle. On occasions when technicians experience difficulty diagnosing a vehicle's problem, they may interact directly with the customer to get more information. When technicians perform warranty work, they explain to the warranty clerk the work performed.

In contrast to the technicians, who work exclusively in the service bay area repairing vehicles, the three service advisors work in the service write up area and interact with customers who bring in their vehicles for diagnosis and repairs. The service advisors input information from customers describing a vehicle's symptoms into a computer. Once a technician has diagnosed the vehicle's problem, the service advisor contacts the customer, offers the customer an estimate, and attempts to sell repair services. On exceedingly rare occasions, the service advisors may perform very simple repair tasks on automobiles such as replacing a light bulb or installing a radio.

The dispatcher works in an office adjacent to both the service write-up area and the service area, and determines the technicians' work assignments. After a service advisor has entered the customer's description of the vehicle's symptoms into the computer, the computer makes a recommendation concerning which technician can perform the work. Based upon the computer recommendation, the workload of the technicians, and the skill and experience levels of the technicians, the dispatcher decides which technician will be assigned the repair.

The warranty clerk and dispatcher share the same office. The warranty clerk is responsible for submitting coded paperwork to Ford so the dealership may be reimbursed for warranty work performed for customers.

### **III. CONCLUSION AS TO APPROPRIATE UNIT**

The Act does not require that the unit for bargaining be the only appropriate unit, or the ultimate unit, or even the most appropriate unit; the Act requires only that the petitioned-for unit be appropriate. *Transerv Systems*, 311 NLRB 766 (1993); *Morand Brothers Beverage Co.*, 91 NLRB 409, 418 (1950). In considering the type of units appropriate for collective-bargaining, the Board has consistently held that a craft comprising a distinct and homogeneous group of skilled journeymen or craftsmen, working as such, together with their apprentices and/or helpers may constitute an appropriate unit. *American Potash & Chemical Corp.*, 107 NLRB 1418, 1423 (1954).

In *Dodge City of Wauwatosa, Inc.*, 282 NLRB 459, 460 (1986), the Board, in a retail automobile dealership, similar to the Employer's operation, found that mechanics constituted "a distinct and homogeneous group of highly trained and skilled craftsmen who are primarily engaged in the performance of tasks that are not only different from the work performed by the other service department employees, but that require the use of substantial specific craft skills, as well as specialized tools and equipment." The Board found that the training and skills possessed by the mechanics, like those performed by technicians here, set them apart from the rest of the service department employees. Thus, the Board in *Dodge City* found that the mechanics constituted a craft entitled to separate representation.

In *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990), the Board, in another automobile dealership, citing *Dodge City*, noting that the service technicians were skilled craftsman and were paid differently than other service department employees, found that a craft unit limited to the mechanics (technicians) was appropriate. Although the Board in *Fletcher* included quick service technicians who performed simple mechanical work in the same unit as more skilled mechanics, it did so on the grounds that these employees had access to formal training programs and were analogous to apprentices, even though they were not formally designated as such.

Applying the criteria adopted by the Board in *Dodge City* and *Fletcher*, I find that the Employer's technicians constitute a craft group entitled to separate representation. Although some of the technicians here are not as skilled as others and this disparity in skill is reflected by their wide range of financial compensation, all the technicians are engaged in auto repair work. Like *Dodge City*, the Employer encourages and pays its technicians to attend training classes offered by Ford in order to improve their skill levels. Even the newest, least experienced technician here is attending Ford certification classes in an effort to improve his skills in his chosen trade. Further, the technicians are offered different classes than those offered to the service advisors, warranty clerk and dispatcher. Although the Employer intentionally maintains a variety of skill levels among the technicians, like the range of skill levels found in *Fletcher*, there is no

evidence that the less skilled technicians will be confined to performing minimally skilled work for the duration of their employment with the Employer. Indeed, to the contrary, the Employer here encourages its technicians to undergo training and pays them for time spent in training.

Like in *Dodge City*, some technicians here are compensated differently than others but none of the technicians receive a fixed weekly salary like the service advisors, dispatcher and warranty clerk. In contrast to the other service department employees, the technicians, like the mechanics in *Dodge City* and the technicians in *Fletcher*, are responsible for supplying their own tools. In addition, the technicians here, like in *Dodge City*, work in an area separate from that of the service advisors, warranty clerk and dispatcher, wear different uniforms, and work a slightly different schedule. When the service manager meets with the technicians, he does not include the service advisors, warranty clerk, or dispatcher in the meeting.

In its brief, the Employer attempts to distinguish *Dodge City* and *Fletcher* from the subject case. However, I find that the minor distinctions between the instant case and the cited cases are insufficient to warrant a different conclusion. The Employer argues that the skill and pay levels of the technicians at issue in this case vary too greatly for them to constitute a craft. However, I note the wide range of difference in the pay levels of the skill mechanics and low skilled quick service technicians which the Board found appropriate in *Fletcher*. The Employer also argues that the technicians in this case, unlike those at issue in *Dodge City* and *Fletcher*, are not all paid on a flat rate basis. Although it is true that the technicians at issue in this case are not all paid on a flat rate basis, a substantial number are paid on a flat rate basis and all the technicians here share the unique characteristic that they are the only service department employees who are not salaried. Thus, the minor differences in the pay basis for some of the technicians in this case are not sufficient to distinguish this case from *Dodge City* and *Fletcher*.

Indeed, the Employer has not cited any precedent involving situations similar to the instant case in which the Board declined to find a craft unit of mechanics (technicians) to be appropriate. For example, the one case cited by the Employer in support of this position, *R.H. Peters Chevrolet*, 303 NLRB 791 (1991), is clearly distinguishable. Although the Board included service advisors and other service department employees in a unit of mechanics in *Peters*, the parties had stipulated to a unit which included “parts department and body shop employees.” Thus the petitioner in *Peters* was not seeking a true craft unit. In the instant case, the Petitioner seeks to represent a craft unit comprised only of the technicians.

Based on all of the above factors, the entire record and having carefully considered the arguments of the parties at the hearing and in the Employer’s brief, I find that the technicians constitute an appropriate craft group entitled to

separate representation. *Dodge City of Wauwatosa*, supra; *Fletcher Jones Chevrolet*, supra. Accordingly, I have directed an election in a craft unit consisting of the technicians, excluding the other service department employees.

The parties agree, the record shows and I find that Service Manager Joseph North is a supervisor within the meaning of Section 2(11) of the Act. Accordingly, I will exclude him from the unit.

## V. CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussions above, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

**All full-time and regular part-time automotive technicians (mechanics) employed by the Employer at its Fairfield, Ohio facility, excluding service advisors, the warranty clerk, the dispatcher, body shop employees, salesmen, lot employees, parts department employees, office clerical employees, managerial employees, all other employees, and all professional employees, guards and supervisors as defined in the Act.**

## VI. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether they wish to be represented for the purposes of collective bargaining by **District Lodge 34, International Association of Machinists and Aerospace Workers, AFL-CIO**. The date, time, and place of the election will be specified in the notice of election that will issue subsequent to this Decision.

#### **A. Voting Eligibility:**

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the election date and who retained their status as such during the eligibility period, and the replacements of those economic strikers. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are: (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### **B. Employer to Submit List of Eligible Voters:**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, Region 9, National Labor Relations Board, 3003 John Weld Peck Federal Building, 550 Main Street, Cincinnati, Ohio 45202-3271, on or before **November 5, 2002**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (513) 684-3946. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.



### **C. Notice of Posting Obligations:**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

### **VII. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5 p.m., EST on **November 12, 2002**. The request may not be filed by facsimile.

Dated at Cincinnati, Ohio this 29<sup>th</sup> of October 2002.

/s/ Richard L. Ahearn, Regional Director

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### **Classification Index**

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